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Committee on Economic, Social and Cultural Rights

Fiftieth session

Summary record of the 13th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 7 May 2013, at 10 a.m.

Chairperson: Mr. Kedzia
later: Mr. Ribeiro Leão (Vice-Chairperson)
later: Mr. Kedzia

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of Togo (continued) (E/C.12/TGO/1; HRI/CORE/1/Add.38 and Rev.1 and 2; E/C.12/TGO/Q/1; E/C.12/TGO/Q/1/Add.1, in French only)

1. *At the invitation of the Chairperson, the delegation of Togo took places at the Committee table.*

2. **Mr. Abashidze** asked whether discrimination against women based on cultural practices used in the State party applied to a particular ethnic group. He also wished to know on what basis ethnic groups were identified as such and whether there was a specific item in the State budget for the funding of the cultural events organized by particular groups. He asked whether the fact-finding mission tasked with shedding light on allegations of incitement to hatred by journalists and political leaders during the 2005 electoral process had issued any conclusions or recommendations.

3. **Mr. Mancisidor** said that he wished to know more about how minority languages were treated in the media and in primary, secondary and higher education, and about access in those languages to the administration, justice, culture and social services.

Replies by the State party to questions on articles 1 to 5 and 6 to 9 of the Covenant

4. **Mr. Hamadou** (Togo) explained that housing due to be constructed between 2009 and 2011 had not been built for budgetary reasons. In Togo, prior to implementing any housing policy, discussions must first be held with the landowners. The current revision of the land policy was one measure being taken to provide housing for vulnerable groups, as it involved the construction of affordable rental housing, among other things. Togo also applied a policy of expropriation in the public interest, whereby the State compensated owners whose land had been seized to make way for public works; they were therefore not forced evictions but rather displacements of the affected landowners.

5. More than one sector was affected by the budget cuts, which the State was trying to offset by seeking external assistance. For instance, in January 2013, Togo had concluded a funding agreement worth 4 billion CFA francs with the French Development Agency to guarantee access to drinking water in schools and rural areas in the Savanna region.

6. As the limitations of the 2004 Employment and Poverty Alleviation Policy framework document had quickly become evident, the document had been reviewed and improved. The new policy, now more inclusive and fully in line with current needs, had been approved and was shortly due to be adopted by the Government. The 20 labour inspectorates in Togo had handled 766 individual complaints and 13 collective complaints in 2012.

7. The Government planned to strengthen its campaign to put a permanent end to the practice of polygamy. With regard to marital rape, there was no specific legislation on the matter, as it was punished in accordance with the provisions of the Criminal Code.

8. Although in the past the Committee had had to consider the implementation of the Covenant by Togo in the absence of a report, that did not mean that the State party did not attach great importance to the Covenant. The Head of State had therefore been keen to ensure that the delegation was made up of ministers, including the Minister of Human Rights.

9. **Ms. Azambo** (Togo) said that, in an effort to combat discrimination, awareness-raising, outreach and education and training activities were conducted regularly for traditional and religious chiefs, journalists, teachers, local officials, members of the Armed Forces and the security forces and other stakeholders involved in the promotion and protection of the rights of women to instil awareness of the principle of non-discrimination and equality and ensure that they applied it in their everyday lives. Non-discrimination was provided for in the Individuals and Family Code adopted in 2012, which included provisions to combat discriminatory practices against women, such as the degrading rites of widowhood practised by some ethnic groups.

10. The Togolese Government was committed to respecting gender equality in appointments to strategic posts. Over the past five years, women had been recruited to the security forces and defence forces in order to achieve gender parity. The Togolese Government also applied a women's quota for the national competitive exam for recruiting trainee teachers.

11. Despite the progress resulting from the framework introduced to combat child labour and trafficking in children, including the Children's Code and the 2005 Child Trafficking Act, further sustained efforts were required both in terms of legislation and identification. A law on trafficking in persons, particularly of women, was currently being drafted.

12. **Ms. Wilson de Souza** (Togo) noted that the Ministry of Human Rights cooperated very closely with both the Office of the United Nations High Commissioner for Human Rights and the National Human Rights Commission, and work was carried out in true synergy, although Togo recognized the Commission's independence. There had recently been an exchange between the three entities on the issue of the national preventive mechanism against torture.

13. **Mr. Kodjo** (Togo) noted that the Individuals and Family Code provided for gender equality in matters of inheritance, irrespective of the type of property. With regard to land rights, a distinction was made between the modern system, which applied to registered land, and the customary system, which applied to unregistered land acquired through inheritance and managed by communities. On the question of marriage, the arrangement provided for under ordinary law was no longer polygamy but monogamy. With regard to the position of the Covenant in the domestic legal order, under article 50 of the Constitution, all instruments ratified by Togo had constitutional status.

14. **Ms. Shin** noted that, while monogamy was now the arrangement under ordinary law, polygamy was still permitted in the State party. Given the high number of early marriages, she wished to know whether a minimum age for marriage was laid down in legislation. She asked whether the State party had grasped the full scope of the concept of reasonable accommodation for persons with disabilities.

15. **Mr. Sadi** asked the delegation to provide, beyond the factual information and intentions already mentioned, specific examples of the application of legislation, judicial decisions and the results of campaigns conducted in the area of child labour, labour inspections and discrimination against women.

16. **Ms. Bras Gomes** requested further details on the different labour inspectorate and administration for the free trade zone, which appeared to weaken the mechanisms in place. She asked about the status of the National Social Protection Policy, which had been ready for adoption since 2012, and requested further details on the dual health insurance system, under which the National Social Security Fund provided protection for employees in the private sector, and Togolese civil servants had compulsory medical insurance. What was the legal framework for the social protection of domestic workers?

17. **Ms. Ravenberg** recalled that it was pointless to adopt laws if no efforts were made to enforce them. The 1978 Nationality Act should be amended, as it was discriminatory towards women with respect to transmitting nationality to children, and was at variance with the Constitution of 1992, which provided for equality between men and women in that area. She asked what policies the Government had adopted to eliminate discriminatory provisions in customary law.

18. **Mr. Atangana** (Country Rapporteur) requested details on the status of the Covenant, particularly on the justiciability of rights other than the right to work, and drew the State party's attention to the Committee's general comment No. 9 on that issue. He noted that there was a contradiction between the information provided in paragraph 198 of the State party report and the provisions of the Constitution. Referring to customary law, he asked whether customary tenure was registered with the administration and how customary sales operated.

19. *Mr. Ribeiro (Vice-Chairperson) took the Chair.*

20. **Mr. Hamadou** (Togo) said that the National Health Insurance Institute was not intended to be in competition with the National Social Security Fund, but to guarantee universal social cover. Contributions were dealt with differently in each case: for the National Social Security Fund, employees paid higher contributions than employers, while for the National Health Insurance Institute, employers and employees paid equal contributions. However, the objective of universal cover had not yet been achieved, as domestic workers and those in the informal sector were not yet covered. With regard to women's rights under customary law, when the provisions of customary law were favourable they were applied, but when they were at variance with positive law they were not.

21. With regard to property matters, in order to avoid double sales, all sales had to be registered with a notary, who informed the planning and land registry authorities, or confirmed by a court judgement. A document certifying the sale was then issued, and served as an official land title. The burden on the employment tribunal in Lomé, which currently served the entire country, should be relieved by the establishment of similar tribunals in each regional capital. In all of the ongoing proceedings in which the Covenant had been invoked, it was interpreted as forming an integral part of the Constitution. However, there was an undeniable discrepancy between legal texts and their application in real life. With regard to interventions by the labour inspectorate in the free trade zone, the 766 complaints that had been registered had been examined, 560 records of conciliation had been drawn up, 132 cases had been referred to the courts, and 34 cases had been dismissed. The labour inspectors operating in the free trade zone issued opinions. The Ministry of Labour, the appellate body, had been required to take a decision in cases that the labour inspectors had been unable to resolve.

22. **Ms. Wilson de Souza** (Togo) said that, long before the establishment of the National Health Insurance Institute, at the initiative of civil society and with the support of financial partners, mutual health insurance associations had been set up in all regions, primarily for the informal sector. However, in order to be able to function, the associations needed a large number of members. Campaigns were therefore conducted to attract members.

23. **Mr. Kodjo** (Togo) said that, for at least the past five years, as article 32 of the Constitution prevailed over the law of 1978, children born to a Togolese father or mother were granted Togolese nationality by law. With respect to polygamy, it was necessary to avoid imposing a brutal change on Togolese society, which could have the opposite effect from that intended. Women could now freely choose the profession they wished to exercise, and the principle of gender equality had been applied since ratification of the Covenant.

While the majority of discriminatory provisions against women in the Individuals and Family Code had been removed, there was still room for improving legislative texts; the application of the new Family Code was a long-term process which involved an awareness-raising phase.

24. **Ms. Wilson de Souza** (Togo) informed the Committee that the members of the delegation that represented a ministry were the focal points for human rights in their ministry. Together, they made up the interministerial commission for drafting initial and periodic reports. The Ministry of Human Rights coordinated the activities of the country's 31 focal points.

25. **Mr. Sadi** welcomed the fact that each ministry had a focal point for human rights and said that other countries could take inspiration from that exemplary practice.

26. **Ms. Shin** asked whether a minimum age for marriage was established in the State party's Family Code or Civil Code.

27. **Ms. Azambo** (Togo) said that articles 43 and 267 of the Individuals and Family Code, as amended in 2012, and the 2007 Children's Code respectively prohibited child marriage. The harmonized legal age for marriage was 18 for boys and girls. In addition, forced marriage was prohibited under article 44 of the Individuals and Family Code. Following the implementation of the 1998 Act on female genital mutilation, the prevalence rate of the practice had decreased from 12 per cent in 1998 to 2 per cent in 2012. With regard to the Child Trafficking Act, an alert system in the form of a toll-free hotline had been introduced in the country. In the event of violations of children's rights, such as trafficking and child labour, the Ministry of Social Action could bring criminal indemnification proceedings. In 2010, the court of Sodoké had convicted nine persons found guilty of trafficking. Proceedings had also been initiated against several perpetrators of early marriage.

Replies by the State party to questions on articles 10 to 12 of the Covenant

28. **Mr. Bouloufei** (Togo) said that significant progress had been made in the care of persons living with HIV since 2008. In 2012, 29,000 persons had received free antiretroviral treatment. Internal resources were deployed for that purpose and, in the Ministry of Health, there was a specific budget line for the purchase of antiretroviral drugs, priority for which was given to vulnerable persons, such as women and children. The system was decentralized, with 115 care centres and 57 distribution sites throughout the country, and the focus was on prevention through awareness-raising and the promotion of voluntary testing. Efforts to combat child mortality and morbidity included prevention measures (for example, free vaccinations and impregnated mosquito nets, encouragement of hand-washing, construction of latrines, and elimination of illegal dumps) and treatment (free anti-malarial drugs, network of regional nutritional recovery centres). With regard to meningitis, which was endemic and cyclical in Togo, epidemiological monitoring and large-scale vaccination campaigns were conducted and antibiotics were administered, and the Government planned to recruit 1,000 health workers to cover remote areas. In the area of mental health, chapter V of the 2009 Health Code provided for three forms of admission to a psychiatric hospital, namely, voluntary hospitalization, involuntary committal and committal at the request of a third party. Visits, as provided for in the Code, were not yet systematized.

29. **Mr. Hamadou** (Togo) said that the housing construction programme that had not been implemented between 2009 and 2011 because of a lack of resources was currently being carried out by the Ministry of Labour, the Ministry of Defence and the Ministry of Finance. As part of the reform of the system of land tenure, the Ministry of Planning was amending the Land Code to bring it into line with legislation and people's needs, taking

into account the reality on the ground. On the issue of forced evictions, as a participant in the Extractive Industries Transparency Initiative, Togo was obliged to negotiate expropriation conditions with the people living on the land. The Government had not set a quota for the recruitment of persons with disabilities, but its objective was to facilitate the accessibility of facilities for persons with disabilities.

30. **Mr. Pillay** requested information on the compensation system that was to be applied to owners whose land was expropriated in mining areas. He drew the delegation's attention to the definition of forced evictions contained in the Committee's general comment No. 7. Noting that in 2006, 61 per cent of the Togolese population had been living below the poverty line, he asked about the results of the Government's various poverty eradication strategies.

31. **Ms. Shin** noted that, although the legal age for marriage had been set at 18 and that early and forced marriages were prohibited by law, early marriages continued to take place in Togo. She asked the State party to provide statistics on that situation in the next report.

32. **Mr. Hamadou** (Togo) said that a distinction needed to be made between private disputes involving a landlord and a tenant who was not able to pay his rent and expropriations in the public interest or to facilitate mining. It was the State's responsibility to compensate landowners whose land had been expropriated so that they could find decent alternative accommodation. The Government was well aware that there were people living in makeshift housing and intended to improve the population's standard of living by building affordable rental housing for those in need. The Togolese Government would welcome the support and advice of the Committee on those issues.

Replies by the State party to questions on articles 13 to 15 of the Covenant

33. **Mr. Sessenou** (Togo) said that the Government recognized the importance of culture in the country's development, and on 30 March 2011 had adopted a national cultural policy. It was making efforts to encourage cultural initiatives and promote art and culture, but could not achieve those objectives without financial resources, which were scarce given the international economic crisis. Nonetheless, the Government was doing its utmost to support cultural activities. In 2013, more than 11 million CFA francs had been allocated to the construction of a cultural centre in the town of Kétao. The State encouraged the expression of the country's various cultures, which included organizing traditional festivals and using ethnic minority languages. Efforts were also being made to enable persons with disabilities to exercise their cultural rights, in compliance with the Convention on the Rights of Persons with Disabilities. For instance, the Government had recently reminded the building contractors working on the construction of the cultural centre in Kétao of their obligation to take account of the needs of persons with disabilities.

34. **Ms. Goeh-Akue** (Togo) said that, in partnership with civil society, the Ministry of Arts and Culture carried out activities to promote a culture of peace among the population following the political conflicts that had occurred in the country.

35. **Mr. Hamadou** (Togo) said that there were 45 ethnic groups living in perfect harmony in Togo. The conflicts that had arisen in the 1990s had been political rather than inter-ethnic, and were now just a distant memory. Many inter-ethnic marriages took place in Togo. Furthermore, the Truth, Justice and Reconciliation Commission had just completed its mission.

36. *Mr. Kedzia resumed the Chair.*

37. **Mr. Bellei** (Togo) said that the 80 Local Initiative Schools in Togo, whose standards were too low, were set to close at the start of the 2013 school year. The volunteer teachers currently working in those schools received annual remuneration of 90,000 CFA francs.

With regard to improving the quality of teaching, there were plans, as part of the education and institutional strengthening project, to construct 800 additional classrooms in order to reduce class sizes. Children received human rights education as of primary school through civics and politics classes.

38. There were currently three primary teacher training colleges in Togo, and there were plans, as part of the education and institutional strengthening project, to build a further three. The National Institute of Educational Science trained secondary school teachers. A programme of refresher courses had been introduced for teachers who had not received any training before starting work, and had strengthened the skills of the volunteer teachers at the Local Initiatives Schools in particular.

39. With regard to the quality of technical education, with the support of the French Development Agency, an agreement worth 4 million CFA francs had been concluded in April 2013 to modernize vocational training. The money would be used to build a training centre for jobs in the port industry. In order to reduce the school repetition and dropout rates, the Ministry of Education had decided to divide the six classes at primary and secondary level into subcycles, make it possible to repeat only at the end of a subcycle, and had introduced free education to help stop girls dropping out of school.

40. **Ms. Wilson de Souza** (Togo) said that, in cooperation with the other ministries, the Ministry of Human Rights had launched an education programme on human rights and citizenship. The Government was building on the work done in workshops with a view to drawing up a national human rights and citizenship policy in the longer term. The policy would enable programmes to be conducted at all levels of education. In parallel, at workshops held with the universities of Lomé and Kara, students had designated human rights coordinators, who had received human rights training.

41. **Mr. Hamadou** (Togo) said that the current budget cuts affected all sectors, not only education. The Government's objective remained to improve the education system, with the support of its partners. In that context, the State continued to acquire teaching materials and had decided to take over the Local Initiative Schools and retrain their volunteer teachers in order to improve the quality of education. Ratification of International Labour Organization Convention No. 169 was under way, but Togo's understanding of the concept of indigenous population differed from that established in the Convention.

The meeting rose at 1 p.m.